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By *Shirley E. Faust*
Deputy

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MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

TONY GOLDEN,
Plaintiff,

-VS-

NORTHWESTERN CORPORATION,
d/b/a NORTHWESTERN ENERGY,
Defendant.

Dept. No. 2

Cause No. DV-12-1257

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

COMES NOW the Plaintiff, by and through counsel of record, and for his complaint against Defendant, alleges as follows:

1. Plaintiff, Tony Golden, is an individual residing in Missoula County, Montana.

2. Defendant, NorthWestern Corporation, doing business as NorthWestern Energy, is a for profit corporation organized under the laws of the state of Delaware. Defendant has offices in Montana, including offices in Missoula County.

3. At all times material hereto, Plaintiff was employed by the Defendant for nearly 20 years, most recently as a real estate representative.

4. Plaintiff was summarily terminated from his position of employment with the Defendant on May 29, 2012. Defendant terminated the Plaintiff based on alleged violations of company policies pertaining to

1 the use of company resources.

2 5. Plaintiff was reprimanded in 2007 for using his computer for his
3 personal real estate business and sales. At the time he was given the
4 reprimand, Tom Alexander and Pat Asay told Plaintiff to keep his activity
5 "to a minimal to incidental." Plaintiff was not told to cease the activity or to
6 stop using the company computer or email.

7 6. Plaintiff's activities in real estate sales did not impact his ability
8 to effectively perform his job.

9 7. Plaintiff was requested by other managers to pull comparable
10 sales information for NorthWestern Energy's business; consequently,
11 Plaintiff's licensure status in real estate benefitted the company.

12 8. In the past 3 evaluation periods, Plaintiff's evaluations did not
13 indicate any problems with his performance, nor was he warned that the
14 incidental personal use of his computer for real estate sales was
15 problematic. His evaluations were good and surpassed those of other
16 managers in his office.

17 9. Plaintiff has received full bonuses over the course of his
18 employment, other than the year he was placed on probation.

19 10. Plaintiff performed his job functions and duties completely, with
20 professionalism, and in accordance with his training and guidance from
21 Defendant.

22 **COUNT I**
23 **Wrongful Discharge**

24 11 Plaintiff re-states and re-alleges Paragraphs 1 through 10 of his
25 Complaint as if fully incorporated herein.

26 12. Plaintiff's discharge was not for good cause and was in
27 violation of the Montana Wrongful Discharge from Employment Act, Mont.
28 Code Ann. § 39-2-904 because Defendant lacked good cause for the

1 termination and because Defendant terminated Plaintiff's employment
2 contrary to its express personnel policies.

3
4 **COUNT II**
Negligent Training and Supervision

5 13. Plaintiff re-states and re-alleges the allegations of Paragraphs
6 1 through 12 as if fully incorporated herein.

7 14. Defendant's supervisors had a duty to train and supervise the
8 Plaintiff with reference to the performance of his duties and to properly
9 inform Plaintiff of Defendant's expectations with regard to personal use of
10 his computer.

11 15. Defendant negligently trained and supervised Plaintiff with
12 reference to his duties.

13 16. Any performance problems identified by the Defendant in
14 reference to Plaintiff's employment were the result of negligent training and
15 supervision of the Plaintiff by the Defendant and failure to appropriately
16 inform Plaintiff that any personal use of Defendant's computers would
17 result.

18 WHEREFORE, Plaintiff prays for relief as follows:

19 1. For all remedies and damages under Mont. Code Ann. § 39-2-
20 905;

21 2. For compensatory damages resulting from Defendant's tortious
22 conduct;

23 3. For cost of suit; and,

24 4. For such other and further relief as this Court deems just and
25 proper.

26 **DEMAND FOR JURY TRIAL**

27 Plaintiff demands a trial by jury on all claims alleged in this
28 Complaint.

1 DATED this 23rd day of October, 2012.

2 MILODRAGOVICH, DALE
3 & STEINBRENNER, P.C.
4 Attorneys for Plaintiff

5 By: 

Elizabeth A. O'Halloran

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